IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8596 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAHMAD @ HAKO S/O. HASAMBHAI SANDHI

Versus

STATE OF GUJARAT

Appearance:

MR YATIN SONI for Petitioner

MR UDAI R. BHATT, AGP Respondent No. 1, 2, 3

CORAM : MR.JUSTICE J.R.VORA

Date of decision: 21/11/2000

ORAL JUDGEMENT

1. Heard learned Advocate Mr.Yatin Soni for the petitioner and learned AGP Mr.Udai R.Bhatt for the respondents.

2. This petition is preferred under Article 226 of the Constitution of India, challenging the order of detention passed by the Police Commissioner, Rajkot City, in exercising the powers under Sec.3 of the Prevention of Anti Social Activities Act (PASA Act for short) and the order is passed on 11th of July, 2000.

3. Including this petitioner, the order was passed by the Commissioner of Police, Rajkot City, against 7 other detenues. The grounds are common for all 8 detenues including the petitioner. One of the petitioners - Rafik Aamadbhai Qureshi, filed Spl.C.A. NO. 8593 of 2000 challenging the order impugned in this petition. This Court in Spl.C.A. No. 8593 of 2000 after hearing the parties came to the following conclusions :

> " From the record, it appears that a request through the representation was made for having the copies of the documents in the language known to the petitioner because the petitioner was not knowing English language as the documents were supplied in English. If the documents are not supplied in the language known to the petitioner, it will amount to depriving him of the opportunity to make effective representation and put up his case effectively. Secondly, in this case the documents supplied in English language were shown to me. On going through the same I also found it difficult to read as the documents written by hand and the xerox copy thereof are not legible as the handwritings are not clear. When the documents supplied are not legible it will be difficult for the petitioner to evaluate the evidence and then make the representation for which a right is available under Article 22(5) of the Constitution. For want of legible document and also in the language known, the petitioner's valuable right to represent his case is jeopardized. The impugned order on this ground cannot be maintained. "

4. In this petition also the petitioner has made grievance that the documents which are supplied to him are in English language and that English language is not properly known to the petitioner, which will amount to depriving him of the opportunity to make effective representative and, therefore, the right available to the petitioner under Article 22(5) of the Constitution is violated. For this reason, this petition is also required to be allowed. Consequently, the detention

order dated 11th July, 2000 passed by the Police Commissioner, Rajkot City, against the petitioner is hereby ordered to be quashed and set aside. Petitioner Mahmad @ Hako S/o Hasambhai Sandhi, is ordered to be set at liberty forthwith if he is not required to be detained for any other purpose. Rule is made absolute. D.S. permitted.

(J.R. Vora, J.)

p.n.nair